

EXHIBIT "E"

Name: Glenn T. DeLaura

A F F I D A V I T

State of Hawaii
County of Honolulu

I, Glenn T. DeLaura, at Pearl Harbor, Hawaii, make the following statement under oath or affirmation. Pursuant to Public Law 93-579 (Privacy Act of 1974), as an individual supplying information for inclusion in a system of records, I have been informed of the following:

EFFECTS OF NONDISCLOSURE: Disclosure of information by me is voluntary; however, I realize my failure to respond could result in a recommended disposition of the case on the basis of information available. Witnesses who are Department of Defense employees may be subject to administrative action for failure to testify.

AUTHORITY: The authority to collect the information requested by this interview is derived from one or more of the following: Title 5, Code of Federal Regulations, Sections 5.2 and 5.3; Title 5, United States Code, Sections 1302, 1303, 1304, 3301, and 3302; Executive Order 11478, as amended; Executive Order 10577; and 29 CFR 1614.

PURPOSE AND USES: The information supplied will be used as part of the record in an equal employment opportunity discrimination complaint or grievance investigation. The record will be furnished to designees of agencies and departments of the Federal Government in order to resolve the complaint or grievance. The record may also be disclosed to any agency of the Federal Government having oversight or review authority with regard to Office of Personnel Management or Department of Defense activities, to the Federal intelligence agencies, or to others as published in the Federal Register.

1. What are your current position title, series, and grade level, and how long have you held this position? When did you start supervising Mr. Kaopua?

I am an Assistant Fire Chief, GS-0081-11, with the Federal Fire Department, and I have held this position for about 15 years.

2. What do you know about Mr. Kaopua's mental condition?

As far as I know, he does not have a mental condition. I've known Milton for 28 years and nothing has changed over the years. When he sees something wrong he writes everything down, page after page, and doesn't tell anyone about it until much later – when something else happens and he suddenly brings up all these things that happened in the past. For example, he responds to a brush fire and gets on the scene and calls for two or more apparatus and I get the call and he exaggerates the situation. Then when I get there it's not nearly as bad as he describes it. My experience is that he always seems to make things bigger than they really are. There does not seem to be anything medically wrong with him; I never saw it. Even now, he does everything he is required to do. He is a good worker and he does his work.

3. What impairment has he described to you, which he claims substantially limits one or more major life activity (i.e., walking, standing, sitting, performing manual tasks, caring her himself, thinking, interacting with others, concentrating, etc.)?

EXHIBIT E 89

AME: Glenn T. DeLaura

He has never described an impairment to me that he said limited one or more of his major life activities.

4. What has been Mr. Kaopua's explanation for what he can and cannot do as far the essential duties of his position? Has he described any aspect of his job that he cannot perform because of his mental condition?

He can do everything required for his job; there isn't anything that he has said he cannot do because of a mental condition.

5. When did he first tell you that he was impaired and had a mental disability?

He has never said this to me, but I remember seeing a medical document that said he was being treated by a psychiatrist. I also remember being contacted by Eileen Figueroa from OWCP after he reported back to work in November 2002. She said she was his counselor and was checking up on him. She wanted to know how he was doing. She was the one who told me that he felt fearful, had anxiety, and stress. She was the one who described his medical condition to me, but that was after he came back to work and I didn't notice anything, which would indicate to me that there was anything wrong with Milton – and this is what I told her.

6. a. When did he first tell you that he needed to be accommodated for his medical condition? How did he make this request?

He never told me that he wanted to be accommodated. It was about two months before he reported back to work that Hazel Wong asked me if we could move him back to Station 11 and at first I did not want to do this because I felt that he was safer at Station 14. I was told he wanted to go back to Station 11 and wanted Abad transferred far away. Station 14 was a better place because they have three captains and one station chief, so there would be onsite supervision to ensure his safety. This was the reason I moved him there in the first place. But I realized that it was more important to get him back to work and I figured he would remain off work if I didn't agree to the transfer.

AME: Glenn T. DeLaura

b. Was Captain Abad ever transferred back to Station 11 after he was moved to Station 9?

No, he has never been assigned back to Station 11.

7. What was the accommodation that he claims he needed and why did he need it?

Again, he never told me what accommodation he needed, but I was told he wanted some assurance that he and Abad would never meet up while they were on duty. I told Hazel that I could agree to this. I had a meeting with both Captains (separately) and their drivers (Kaopua, Abad, Myron Paso, and Harry Kiyan) right after Kaopua reported back to work and told them that at no time were any of them to call each others station and if they had to call the station for any reason, they would have their drivers call, or one of the firefighters. I also told them that they were not to go to each other's stations – on or off duty. I then met with the other Captains (because I have off days, when someone acts for me) and told them that at no time were Kaopua and Abad to be in the same place at the same time. I also let Chief Yuen (on the opposite shift) know about this, just in case they volunteer for overtime on the opposite shift.

8. To your knowledge, can Mr. Kaopua work at any fire station that does not put him in contact with Mr. Abad or are there certain aspects of his position as a Captain that he cannot perform?

He can't be assigned to Station 1 or 2 because of certifications, but he can work at any other fire station that does not put him in contact with Abad. To my knowledge, there is no duty or responsibility that he cannot perform.

9. Did you request medical documentation and did he provide it (when was it provided)? Did you sit down with him and/or his attorney to talk about his mental disability and limitations? If yes, what was discussed? If no, why not?

When he first went out on sick leave, I asked for medical documentation to support his absence. This is our requirement if firefighters are out from work (on sick leave) for more than two workdays. He provided the documentation, although not immediately. I have never

AME: Glenn T. DeLaura

him or his attorney about his medical condition or his limitation. Shortly before he returned to work, Eileen Figueroa called and asked me if I could sit down with Captain Kaopua and talk before he reported back to work. I agreed and we set up a date and time, but she called back and requested that his wife and attorney be present, but Hazel said I should not do this alone, so the meeting was cancelled. Thereafter, he reported back to work. Milton never called me to discuss his medical condition or to request any accommodation.

10. Why didn't you accommodate him sooner?

I don't know. I believe I did the things that needed to get done to accommodate him as soon as I knew what it was.

11 He claims you moved him from Lualualei, after he lodged his complaint against Mr. Abad. Explain what happened and was Mr. Abad also transferred?

I moved both of them at the same time because just prior to this incident both of them were given letters of caution. There was an incident with a firefighter who was sleeping and living at the fire station for about one year. Both Captains knew about this and didn't report it or do anything about it, so they were both given letters. At the time, we were going through a transition. I was on B shift and Captain Abad was my captain, so I issued the letter to Abad. Chief Gilding issued the letter to Kaopua. The department was going through a reorganization and I was transferred to A shift and became Milton's chief and Abad came under Chief Yuen. Then this incident happened and we felt that when we issued the LOCs we told them that we were displeased with what went on and we would move both of them to other stations if there was a further incident. Then this incident happened and Milton got the TRO. We decided that the best course of action was to move Kaopua to Station 14 because he would be safer there and there was a Station Chief there and we moved Abad to Station 9 because there was an opening there and it was a place that I could control the truck's movements because they are restricted as to where they can go and I can control the truck movement.

AME: Glenn T. DeLaura

12. Mr. Kaopua claims he talked to you about Abad's death threat on October 25, 2001 and nothing was ever said to help him feel secure and safe at work, to assure him that he would be protected, or to help him feel safe. What is your response to this?

At the beginning of October, when the ice machine incident started, he talked to me about the incident. He told me that Captain Abad put a lock on the ice machine and security needed ice so they had to cut the lock. I told him that this was childish behavior and it had to stop; and I would talk to Chief Yuen. Then Eric Pratt accused Kaopua of hiding government mail that came for him and Chief Yuen and I saw this as more childish behavior. Then Abad went on emergency leave because his father died and I didn't even know that he had filed a police report or about anything else that was going on. Then Kaopua called me and asked me if I knew that Abad threatened him. That was all that was said. Abad was still on emergency leave and this was an incident that happened a couple of weeks earlier, so I told him that I would come to the station the following day and talk to him. I was going to go down the next day, but found out that Chiefs Kaea and Jones were going down there. When they came back that afternoon Chief Kaea showed me the police report about the whole incident.

13. Mr. Abad threatened to shoot Kaopua during a Federal inquiry. What did you do to ensure he did not follow through on this threat?

Abad was still on emergency leave so it was not necessary to do anything that day. The next day, Milton went on sick leave and he didn't return until the following November. Milton was at home when he called me to say he was not going to come to work and he was on sick leave. He did not explain why. I told him that he needed to come in so I could start an investigation into what happened and find out what was going on. He didn't acknowledge my request and did not report back to work. I never conducted the investigation because I didn't have a chance to do it and Chief Kaea said he was going to do it. Then the matter was turned over to security and we thought it was going to be investigated and handled by them.

14. Was any corrective action taken to correct Captain Abad's conduct? Explain your yes or no answer.

AME: Glenn T. DeLaura

Yes, we waited until the court case against him was completed and he was issued a Letter of Reprimand for using inappropriate language. I issued the letter.

15. Did you at any time discriminate against Mr. Kaopua because of his race and/or national origin?

No.

16. For the record, what is your race?

I am Hawaiian, Portuguese, Filipino, English, Spanish, and French. I want to add that my grandson is half Hawaiian.

17. What is your national origin?

I am an American.

18. a. Did you discriminate against Mr. Kaopua because of his religion? Do you know his religion? Has he ever discussed religion?

No. I don't even know what his religion is and he has never discussed his religion with me.

b. Mr. Kaopua claims you told him that Mr. Abad was a good man and took the time to relieve him when he went to church. Did you say something like this and what did you mean by it?

Kaopua was starting to place entries in the logbook and these recordings were taking place prior to 0800 – he was recording the time that Abad reported for duty and Chief Yuen mentioned this to me because he felt Kaopua was doing this to harass Abad. Chief Yuen asked me to address this with Kaopua, so I did. I talked to Milton and asked him why he was doing this because Abad was always coming in early on weekends so he could leave early and go to church. I don't remember what Milton said in response to this.

19. What do you identify with in terms of religion?

I am a Christian.

AME: Glenn T. DeLaura

20. Did you discriminate against him because of his mental disability?

No.

21. a. Mr. Kaopua claims he was subjected to a hostile work environment by Mr. Abad. What do you know about their relationship and what kinds of problems did Mr. Kaopua report and when?

I don't remember any problems until the incident with the logbook and the firefighter that was sleeping at the station, I didn't think there were any problems.

b. He claims the harassment goes back to November 1998 – what were his reports going back to that date?

None that I know about.

c. He claims he reported the harassment to Chief Gilding while you were supervising Captain Abad on the opposite shift. For example, the wild pigs that he fed, the hoses that he changed on the apparatus, the fish and escargots that he raised for resale. Do you know anything about this?

These things were never reported to me. I found out about the pigs in July 2001 when I went to the station and a wild pig came out. It scared me and I asked what was going on. I was told the wild pigs came down because of the domestic pigs that were being raised on the bunkers – outside of the station's boundary. When all of this surfaced and the pig issue was raised, I was told that everyone on both shifts owned the pigs, including Milton. As for the fish and escargots, nothing was ever said to me about this. It was not unusual for the stations to have animals and we did not have a policy on this. Chief Jones has recently told us, verbally, that no animals will be raised at the stations, but this was because of a wild rooster incident that just occurred at Station 9.

22. What kinds of problems did Mr. Abad, or others, report to you about Mr. Kaopua, if any?

Abad would say Milton was not cleaning the station and his shift was not doing their fair share of the work – that's about it. But we hear this kind of stuff constantly from the shifts at

AME; Glenn T. DeLaura

all the stations. I know that the guys on Milton's shift have told me that they feel uncomfortable around him because he is always writing things down and videotaping stuff and he makes them feel uncomfortable. In fact, when I moved the Captain to another station because we were bringing Milton back, his entire crew asked to be transferred. I had nothing to do with this and how they feel -- this is about Milton and his relationship with his crew.

23. a. In your opinion, what is Mr. Abad's height and weight? What is Mr. Kaopua's height and weight?

Abad is about 5' 9" and about 190 pounds. Kaopua is about the same height and weighs about 210 or 220.

b. Mr. Kaopua says you took a logbook that has important information in it. Is this correct?

I did take a logbook, to secure it because I thought it might become important. I turned it over to the Labor Relations office at HRO. The logbook contains timelines that I feel may become important.

24. a. Prior to the incident, which resulted in the October 2001 police report, did Mr. Kaopua ever tell you that he feared Mr. Abad or said or did anything to indicate he felt threatened by Mr. Abad?

No. They both worked at Barbers Point at one time and there were never any problems when they worked together there.

b. You met with Mr. Kaopua on October 11, 2001. What was the purpose of this meeting and did he say anything at that time to indicate he felt threatened by Mr. Abad or was fearful of him?

This is when I first transferred over to A shift and going to all the stations to tell them what I expected of them and asked if anyone had any problems and if they wanted to bring anything up to me. He never mentioned anything to me about the incident with Abad at the time. It was about a week later, when I was leaving the station that Kaopua came up to me and said, "by the way Chief, Captain Abad threatened me." I asked him, "what kind of threat" and he

AME: Glenn T. DeLaura

said he didn't know. He said this in a casual way and didn't seem real concerned about it – he didn't even know what the threat was and I took it like two guys talking and one saying, "I'm going to kick butt."

25. When did Mr. Kaopua first tell you that he felt threatened by Mr. Abad and fearful of him and could not work anywhere that would put him in his presence?

He never told me this.

26. Mr. Kaopua says he told management officials back in November 1998 that Mr. Abad was subjecting him to a hostile work environment and they failed to take prompt and effective corrective action. Do you know anything about this?

No, this was never reported to me – except for the things already mentioned above.

27. Mr. Kaopua says you told him that you were transferring him to Station 14 and he asked you why you were punishing him when it was Abad who threatened him. Is this correct?

I remember something like this when I told him about the transfer. I told him that I was not punishing him and explained that the events that transpired were what drove our decision. I reminded him about the incident with James Carter sleeping at the station and that he was told we would move them if there were any other incidents. I told him that the bickering between him and Abad was unproductive and causing problems between the two shifts and it was time to move both of them.

28. Has Mr. Kaopua reported any other threats by Mr. Abad?

No, he has not.

29. a. You said the problem between Abad and Kaopua was a fairly common thing between shift captains, so you didn't take any further action when you met with Kaopua on October 19th because you did not think the threat was serious. What do you mean by this?

I may have all the dates wrong because it was a long time ago, so I can only tell you what I remember, even if some of the dates are wrong. I remember him coming up to me and

AME: Glenn T. DeLaura

mentioning something about a threat, but he didn't know what the threat was and did not seem concerned, so I didn't take it seriously at the time because he did not seem to take it seriously.

b. You said you told the Fire Chief (on 10/25/01 –after learning about the police report that Kaopua filed) that you would investigate the matter but was told NIS was doing an investigation. Did NIS conduct an investigation and what was the outcome?

NIS conducted the investigation and it went to court. Abad was not found guilty, but he did use inappropriate language and was viewed as a third party threat.

30. Mr. Kaopua claims you delayed, misprocessed, and interfered with his OWCP claims. What is your response to this allegation?

I know that he filed his claim late. He called in sick and never reported that it was a Traumatic Injury. Then he called me said he wanted to file a claim and this was late November. I told him that he needed to come in to my office or we could meet at Station 11. He said if I wanted to talk, I would have to talk to his lawyer. I told him that he needs to file his claim and file a TI report. I told him that I thought he needed to file a CA-2. I was told he did go to Station 11 to fill out the form and he put it in a guard mail envelope at the station and left it there. He didn't tell anyone about it and I usually go to the stations every other Wednesday to get timecards and that was when I happened to pick up the guard mail and found the CA-1. I signed it and controverted it because I did not have an opportunity to investigate the matter. I didn't interfere with or misprocess his claim. I did what I needed to do.

31. Mr. Kaopua's claim is dated 11/26/01 but Ms. DeVita did not receive it until 12/31/01 and the CA-1 was not completed by his supervisor. When did you first receive the claim; how did you receive and what did you do with it?

I can't remember the specific dates, but what I related above is what I remember. I don't know anything about the CA-1 form not being completed. I remember signing it and sending it to headquarters as soon as I received it in the guard mail.

AME: Glenn T. DeLaura

32. Ms. DeVita says she returned the form to the Federal Fire Department so the supervisor could fill out the relevant portion and did not get it back until 3/13/02. She contends it got lost and the claim had to be filed again. What do you know about this? Who lost it – where was it lost?

I don't know anything about this.

33. Complainant says management failed to inform him of correct advance sick leave procedures and rights and failed to timely process his request. Did you have any involvement in this matter?

I had no involvement in this matter and don't remember talking to Chief Jones about it.

34. Do you know anything about the confusion regarding a determination about his eligibility to receive leave donations because his worker's compensation claim was granted? Did you have any say in this matter?

I don't know anything about this, but I know that his leave transfer request was posted.

35. Do you have a disabling condition?

I have a hearing loss.

36. Captain Kaopua says Captain Abad recently went to Station 11 to get ice when he should not have and he believes this is because management has not done enough to ensure his safety. What is your response to this?

Captain Abad totally messed up. I clearly told Captain Abad that he was not to go to Station 11 for any reason, at any time. That morning, I got a call at home and this was reported to me. I tried calling Abad to find out what was going on. There was any earlier incident when Kaopua called me and said Abad called the fire station and asked for firefighter Kaina and Abad said, "good morning Captain Kaopua, may I speak to Mr. Kaina." Kaopua claims he didn't say anything and give Kaina the telephone. I then called Abad to find out what was going on and he said he did not call the station. He called dispatch and told dispatch that he could not call the station, so if they could call for him because he wanted to talk to Kaina.

AME: Glenn T. DeLaura

He insisted he did not call the station. We went to dispatch and listened to the tape and what Abad said is true. He did not call the station, the whole conversation is recorded. It was the dispatcher who called for him and asked Kaopua to have Kaina call Abad. It is clear that Kaopua lied to me about the incident. As for the ice incident, Abad did say he went to the station in the morning. He called dispatch that morning and asked who was on duty and was told it was Captain Lyon, so he thought it was okay to go get the ice because Kaopua was not there. He went to the station and was taking ice out of the machine and supposedly Kaopua was having a meeting and relaying information to the oncoming Captain. Abad said he was with firefighter Heau and Captain Abad saw Kaopua drive by to go outside the gate. He then asked Heau to stay with him by the machine. At no time did he have contact with Kaopua. Kaopua left the base and turned around and came back to report the matter to security. I investigated this matter and I've proposed disciplinary action against Captain Abad for failing to follow instructions.

37. Do you have anything else to add?

No.

END OF STATEMENT

I have read the above statement, consisting of 12 pages, and it is true and complete to the best of my knowledge and belief. I understand that the information I have given is not to be considered confidential and that it may be shown to the interested parties.

Subscribed and sworn before me

at:

Paul Hobbs, HI

on this 16th day of July 2003

(Signature)

Cynthia Lyons
OCI H.H. 10/10

Glenn T. DeLaura

Affiant's Signature

Title